

ARTS, ENTERTAINMENT AND SPORTS LAW SECTION

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The District of Columbia Bar

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June 1, 1995

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EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: MM Docket No. 94-149 - Minority and Female Ownership of Mass Media Facilities; MM Docket No. 91-221 - TV Broadcast Ownership; MM Docket No. 94-150 - Attribution of Broadcast Interests; MM Docket No. 87-268 - Advanced Television Systems

Enclosed are tapes of a District of Columbia Bar brown bag discussion on "Proposed Changes in Broadcast Ownership Rules and Their Effect on Investors" that took place on May 31, 1995, and touched on areas covered in the above-referenced dockets. As reflected in the flyer included as Attachment A, Lisa Smith, Senior Legal Advisor to Commissioner Barrett, and Stephen Klitzman, Associate Director, Office of Legislative and Intergovernmental Affairs, were among the participants. Virginia Marshall, intern in Commissioner Barrett's office, and Craig Krueger, intern in Chairman Hundt's office, also attended. The two handouts available for all those attending are included as Attachments B and C. Please associate these materials with the above-referenced proceedings.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

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William F. Caton
June 1, 1995
Page 2

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'Gina', with a long horizontal stroke extending to the right.

Gina Harrison, Co-chair
Television and Motion Pictures Committee

Enclosures - tapes as described

Attachments - 3

cc: Lisa Smith
Stephen Klitzman
Virginia Marshall
Craig Krueger

ARTS, ENTERTAINMENT AND SPORTS LAW SECTION



The District of Columbia Bar

**PROPOSED CHANGES IN BROADCAST OWNERSHIP RULES AND THEIR
EFFECT ON INVESTORS**
**Brown Bag Lunch Sponsored by Television and Motion Pictures Committee
Wednesday, May 31, 1995**

The panel will discuss agency and legislative proposals affecting diversity in, and minority and female ownership of, TV stations, and involving use of additional channels for high definition television (HDTV). Then, the group will hear what this may mean to potential investors.

Lisa B. Smith
Legal Advisor, FCC Commissioner Andrew C. Barrett

Stephen Klitzman
Associate Director, FCC Office of Legislative Affairs

Lawrence Roberts
Partner, Roberts & Eckard, PC

Paul Blaustein
Vice President, Legg Mason Wood Walker, Inc.

Maurita K. Coley (Moderator)
Vice President, Legal Affairs, Black Entertainment Television

Gina Harrison (Moderator)
Director, Regulatory Affairs, Pacific Telesis

Time: Wednesday, May 31, 1995, 12 noon

Place: Pacific Telesis, 1275 Pennsylvania Avenue, NW, Suite 400

Cost: \$5 members, \$10 non-members (please bring your lunch)

Reservation Form

**Mail to: Television and Motion Pictures: Broadcast Ownership, D.C. Bar, Sections
Office, 1250 H Street, N.W., 6th Floor, Washington, D.C. 20005-3908**

Please reserve ___ space(s) for me at the May 31st program. Enclosed is my check, made payable to the "D.C. Bar", for ___ Section member reservations and ___ non-Section member reservations in the amount of \$___. Seating is limited to 30. Early registration is recommended.

Name(s) _____

D.C. Bar No. (s) _____

Phone No. _____ Fax No. _____

21-19-02/\$5-\$10

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Proposed Changes in Broadcast
Ownership Rules And Their Effect on Investors

Television and Motion Pictures Committee
Arts, Entertainment and Sports Law Section
The District of Columbia Bar
May 31, 1995

Lawrence Roberts
Roberts & Eckard, P.C.¹

I. Current Television Ownership Limits

- A. National Station Limit: 12 Stations
Note: 14 (If Two are Minority-Controlled)
- B. National Audience Cap Limit: 25% of TV Households
Notes: Only 50% of UHF Share Counts
30% (if 5% of 30% are Minority-Controlled)
- C. Local Station Limit: One TV Station
(Duopoly Rule)
Note: Based on Grade B Signal Overlap
- D. Local TV/Radio Limit (One-to-a-Market Rule): No Common
Ownership of TV/Radio

¹ Roberts & Eckard, P.C., specializes in the fields of communications, intellectual property, transaction/financing, entertainment and computer law, representing clients in broadcast and cable television, wireless cable, music, radio, cellular telephone and specialized mobile radio, satellite communications, computers and new technologies.

Note: Based on (1) Grade A TV Signal Over Entire Radio Community or (2) Either 2 mV/m AM Signal or 1/0 mV/m FM Signal Over Entire TV Community

Exceptions: Top 25 Market/30 Independent Voices
Bankrupt or Failed Station
Ad Hoc Waivers/Five-Part Test

- E. TV/Daily English Language Newspaper Cross Ownership Limit
Note: Based on Grade A TV Signal Over Entire Newspaper Community
- F. TV/Cable Cross Ownership Limit
Note: Based on Grade B TV Signal Over Any Part of Cable Service Area
- G. No Ownership Limits: LPTV (Low Power Television)
TV Translator Stations
TV Satellite Stations
Noncommercial Stations
- H. Foreign Ownership Limit -- Section 310 of the Communications Act)
Licensee: No Foreign Officers/Directors
20% Cumulative Foreign Ownership
Parent: No Foreign Officers
25% of Directors
25% Cumulative Foreign Ownership
Note: FCC Has Discretion to Permit More Than 25% Foreign Ownership in Parent Companies
- I. Ownership Attribution
Attributable Interests: Officers
Directors
General Partners
Noninsulated Limited Partners
5% or More of Voting Stock
10% for Passive Investors
Investment Companies
Insurance Companies
Bank Trust Departments
Entity With Actual Control
Spousal Attribution
Exceptions: Loans/Debt Instruments
Multiplier Effect
Nonvoting Stock
Insulated Limited Partners
Insulated Trust
Single Majority Stockholder
Warrants/Convertible Debt
Options to Acquire Stock

II. Television Ownership Proposals Under FCC Consideration

Review of Rule Rationale

1. Safeguard Against Undue Concentration of Economic Power
 - a. Proliferation of TV Stations
 - b. Proliferation of Alternative Video Services
 - c. Cable Reregulation
 - d. Telephone Competition
 - c. Relevant Economic Markets
 - i. Delivered Video Programming (Local)
 - ii. Advertising (National/Local)
 - iii. Video Program Production (National/International)
2. Diversity of Viewpoints
 - a. Content Regulation
 - i. Issue Responsive Programming
 - ii. Political Programming
 - iii. Children's Programming
 - b. Structural Regulation
 - i. Ownership Restrictions
 - ii. Minority Ownership
 - iii. Equal Employment Opportunity
 - c. Relevant Economic Market
 - i. Broadcast Television/Yes
 - ii. Cable Television/Yes
 - iii. Other Non-Broadcast Television/No
 - iv. VCR/No
 - v. Radio-Newspapers/Maybe
 - vi. Computers/??
 - d. Relevant Geographic Market
 - i. National
 - ii. Local
- A. National Station Limit: 18-24 Stations or No Limit
- B. National Audience Cap Limit: Gradual Rise to 50% of TV Households

Notes: Count 100% of UHF Share Counts

- C. Local Station Limit: One TV Station
(Duopoly Rule)
Note: Based on Grade A Signal Overlap
Allow UHF/UHF and UHF/VHF Combinations
- D. Local TV/Radio Limit (One-to-a-Market Rule): Eliminate or
Permit in Markets With More Than 20 Independent Voices
- E. TV/Daily English Language Newspaper Cross Ownership Limit
Note: No Change Proposed
- F. TV/Cable Cross Ownership Limit
Note: No Change Proposed
- G. No Ownership Limits: LPTV (Low Power Television)
TV Translator Stations
TV Satellite Stations (Being
Reconsidered)
Noncommercial Stations
- H. Foreign Ownership Limit -- No Change
- I. Local Marketing Agreements/LMAs
- J. Ownership Attribution
For Comment: Increase 5% Threshold to 10%
Increase Passive 10% Threshold to 20%
Nonvoting Stock Attributable
Substantial Equity
Some Voting Rights
Contractual Relationships
Limit Single Majority Stockholder
Exception
Relax Insulation Requirements for
Certain Limited Partnerships
Limited Liability Companies
Treated Similar to LPs --
Attributable Unless Insulated)
Cross-Interest Policy
Key Employees
Nonattributable Equity Interests
Joint Venture Agreements
Significant/Multiple Business
Relationships
Time Brokerage Agreements/LMAs
Joint Sales Agreements
Debt Relationships
Nonattributable Equity + Debt
Family Relationships

K. Minority/Female Ownership Proposals

For Comment: Economic Disadvantage Rationale
Incubator Program
Substantial Financial Assistance
Operational Assistance
Training Programs
Permits Acquisition of Additional
Comparable Facilities
Unlimited Noncontrolling Investments
Tax Certificates
Minority Sellers Seeking Better
Facilities
Investment Tax Credits
3AM/3FMs for Minority Owners
(30% Audience Cap)

III. Legislative Developments**House of Representatives**

| | |
|--------------------|---|
| HR-1555 | Passed House Telecommunications Subcommittee Passed House Commerce Committee |
| HR-1528 | House Judiciary Committee |
| Rules Committee | Review of Bills/Decision Which to Report to House Floor |
| House | Vote Expected in July |

Senate

| | |
|--------|---|
| S-652 | Passed Senate Communications Subcommittee Passed Senate Commerce Committee |
| Senate | Debate and Vote Scheduled for June |

IV. Possible Effects on Investors

Increase Station Prices
Increase Horizontal/Vertical Integration
Reduce Minority/Female Ownership Opportunities
Reduce Transaction Costs
Reduce FCC Processing Time
Promote Consolidation of Ownership
Reduce Ability of Small Players to Own Stations

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SOURCE:

Chicago Tribune

DATE:

5/26/95

PAGE:

C1

Media bill would ease outlet limits

House panel reviews regulations update

By Tim Jones

TRIBUNE MEDIA WRITER

Owners of television and radio stations would be clear to buy many more media outlets—including newspapers—under a bill expected to be approved by a U.S. House committee Thursday.

In a move that could signal a radical restructuring of the nation's communications laws, the House Commerce Committee is removing many of the strictures on media ownership that were originally designed to prevent monopolistic control of the media.

Although this version of the proposed remake of the 61-year-old Communications Act might not survive congressional or presidential scrutiny, it is becoming clear that significant regulatory changes are coming.

The fragmentation of the media marketplace, brought about by the proliferation of cable television, as well as the declining influence of newspapers has rendered obsolete many of the old concerns about the concentration of media ownership.

That, coupled with the communications industry's burning desire to increase profits, is driving the congressional effort.

The recommended changes in broadcasting law—part of a top-to-bottom overhaul of the laws governing cable, telephone and other forms of communication—are among the most sweeping in the package.

Limits on the number of television stations a single owner can hold, currently 12, would be lifted entirely, while the allowable nationwide audience reach of those stations would be doubled to 50 percent from 25 percent.

A single owner also could own two television stations in a single market. Numerical restrictions on radio station ownership would be lifted. Broadcast station owners also would be allowed to own a newspaper in the same market.

The only exception to the recommendation, the committee proposal says, is that there must be at least two independently owned voices in the market before multiple ownership could be allowed. The Federal Communications Commission would have the power to deny acquisitions if it decided the media concentration in one owner would be too great.

Also, price regulations on cable television service would be removed, except for so-called basic service.

The recommendations of the committee do not necessarily mean Congress will approve or President Clinton will sign into law these sweeping changes.

There is ample evidence to suggest that recommended bold changes have a short shelf life. The first 100 days of the new Republican House produced passage of some dramatic legislation that may never survive the Senate, let alone make it past Clinton's desk.

But the recommendations do reflect a significant changing mindset in Washington regarding communications regulation.

In addition to this House activity, the Senate is poised to vote June 5 on major revisions in the nation's telecommunications laws.

Meanwhile, prospects for the House measure appear promising, but that represents only one house of Congress. The final elements of this package are scheduled to be worked out Thursday before the House Commerce Committee vote. The committee's chairman, Rep. Thomas Bliley (R-Va.), said the House is expected to consider the measure in July.

The obstacles to final congressional passage of financial stakes for telephone and cable companies either measure should not be taken lightly.

8

House Committee Votes to Ease Cable Laws

In a 38-to-5 vote approving an overhaul of communications regulation, the House Commerce Committee voted to kill most cable-TV price limits and to lift scores of restrictions on how many television, radio and other media properties a company can own.

The bill would also let local Bell telephone companies enter the long-distance and cable industries while forcing them to open up their own markets. [Page A1.]

tion, which is looking for new media properties, was one of many companies that lobbied hard for the ability to own television stations and newspapers in the same market. Mr. Murdoch, who already owns television properties and newspapers, including The New York Post, has been rumored to be interested in starting a newspaper here, where his company already owns a television station.

ABC, NBC and CBS and other large broadcasters like the Westinghouse Electric Company, the Tribune Company and Ronald O. Perelman's New World Communications Group, all lobbied for sharply increasing the number of television and radio stations a company could own nationwide.

But medium-sized and smaller broadcasters were opposed to lifting the restrictions, fearing competition from powerful new rivals. The Washington Post Company, which owns both cable and broadcast stations, staunchly opposed the measure. The National Association of Broadcasters, the industry trade group, was split over the issue and remained neutral.

But industry lobbyists have seldom met more receptive lawmakers. Committee Republicans have held numerous meetings with industry executives since January, some behind closed doors, at which they implored companies to offer as many suggestions as possible about the ways that Congress could help them.

The Clinton Administration opposes several features of the bill, especially the repeal of most cable television price regulation. But House Democrats were notably timid today, offering several rather tame amendments that were roundly defeated by the Republicans.

The Republican swagger was best captured by Representative Jack Fields of Texas, chairman of the House Commerce subcommittee on telecommunications, who calmly predicted in a recent interview that the White House would not dare to veto the bill.

"They're bluffing," Mr. Fields said. "Back where I come from, you learn that before you get into a fistfight you always look into a person's eyes to see if they've really got the adrenaline. But I've met with the White House people and I don't see it in their eyes."

The bill passed today would immediately eliminate all price regulation for cable television companies with fewer than 600,000 subscribers nationwide. Representative Edward J. Markey, a Democrat of Massachusetts and an architect of legislation in 1992 that regulated cable prices, said that 59 percent of all cable systems, serving 8.5 percent of all subscribers, would immediately be freed from regulation.

The rest of the industry would be freed from most price regulation after about 15 months. The larger companies would still be regulated for their most basic packages of service, which essentially consist of re-transmitting local broadcast stations. But all expanded tiers of service would be freed.

The bill would also let telephone companies buy the local cable franchise in any area serving fewer than 50,000 homes. That provision sparked angry opposition from Democrats and consumer groups, who said it would merely allow a phone company with a local monopoly to acquire its most likely rival — the monopoly cable company.

Decker Anstrom, president of the National Cable Television Association, said the provision would cover more than half the nation's municipalities. But, he added, many medium-sized and small cities would naturally attract competing cable and telephone carriers.

The bill would largely reverse a law passed in 1992, over the veto of President George Bush, when Congress was controlled by Democrats. Since its adoption, the Federal Communications Commission has ordered cable companies to cut their prices by about \$3 billion, though the rules are complex and the actual impact on many customers has been modest.

Many Republicans have been intent on reversing the law, even though many of them voted for the original bill. Today they argued that the rules shackled a vibrant industry as new competitors like telephone companies began to attack traditional cable monopolies.

The biggest fights today concerned proposals to eliminate many

restrictions on owning television and radio properties. The committee voted 34 to 13 for an amendment by Representative Cliff Stearns, a Republican of Florida, which would drastically raise both nationwide and local limits on the number of stations a company can own.

The provision would eliminate the current nationwide limit of 12 television stations and 40 radio stations, allowing a company to acquire stations that reach 50 percent of the population by 1997. The bill would also let a company own two television stations in a single market and as many radio stations as it wanted, unless the Federal Communications Commission decided that the company would have too much power.

The bill also strikes down a restriction, adopted during the 1970's, that prohibits a company from owning both a newspaper and a television station in the same city.

Republicans said the old limits were archaic, given that television stations must now compete with dozens of cable channels, new satellite-delivered television services and in time programming from telephone companies.

"This bill is about the future," said Mr. Fields of Texas. "I hear the gentleman from Massachusetts talking about 1930's-vintage statutes. This is a new age, and we cannot predict how the economies of scale will affect this new marketplace."

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Broadcast Reform Legislation
in Telecomm. Reform
Bills

II

Calendar No. 45

104TH CONGRESS
1ST SESSION

S. 652

[Report No. 104-23]

To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

IN THE SENATE OF THE UNITED STATES

³⁰
MARCH ^{3/27} (legislative day ^{3/27}), 1995

Mr. PRESSLER, from the Committee on Commerce, Science, and Technology, reported the following original bill; which was read twice and placed on the calendar

A BILL

To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3

1 pendent auditor and bear the costs of having the
2 audit performed.

3 (3) AVAILABILITY OF AUDITOR'S REPORT.—The
4 auditor's report shall be provided to the State com-
5 mission within 6 months after the request for the
6 audit was made by the State commission.

7 (e) DEFINITIONS.—Any term used in this section
8 that is defined in the Public Utility Holding Company Act
9 of 1935 (15 U.S.C. 79a et seq.) has the same meaning
10 as it has in that Act.

11 (f) EFFECTIVE DATE.—This section takes effect on
12 the date of enactment of this Act.

→ 13 **SEC. 207. BROADCAST REFORM.**

14 (a) SPECTRUM REFORM.—

ATV

15 (1) ADVANCED TELEVISION SPECTRUM SERV-
16 ICES.—If the Commission by rule permits licensees
17 to provide advanced television services, then—

18 (A) it shall adopt regulations that allow
19 such licensees to make use of the advanced tele-
20 vision spectrum for the transmission of ancil-
21 lary or supplementary services if the licensees
22 provide without charge to the public at least
23 one advanced television program service as pre-
24 scribed by the Commission that is intended for

4

1 and available to the general public on the ad-
2 vanced television spectrum; and

3 (B) it shall apply similar rules to use of
4 existing television spectrum.

5 (2) COMMISSION TO COLLECT FEES.—To the
6 extent that a television broadcast licensee provides
7 ancillary or supplementary services using existing or
8 advanced television spectrum—

9 (A) for which payment of a subscription
10 fee is required in order to receive such services,
11 or

12 (B) for which the licensee directly or indi-
13 rectly receives compensation from a third party
14 in return for transmitting material furnished by
15 such third party, other than payments to broad-
16 cast stations by third parties for transmission
17 of program material or commercial advertising,
18 the Commission may collect from each such licensee
19 an annual fee to the extent the existing or advanced
20 television spectrum is used for such ancillary or sup-
21 plementary services. In determining the amount of
22 such fees, the Commission shall take into account
23 the portion of the licensee's total existing or ad-
24 vanced television spectrum which is used for such
25 services and the amount of time such services are



1 provided. The amount of such fees to be collected for
2 any such service shall not, in any event, exceed an
3 amount equivalent on an annualized basis to the
4 amount paid by providers of a competing service on
5 spectrum subject to auction under section 309(j) of
6 the Communications Act of 1934 (47 U.S.C. 309(j)).

7 (3) PUBLIC INTEREST REQUIREMENT.—Noth-
8 ing in this section shall be construed as relieving a
9 television broadcasting station from its obligation to
10 serve the public interest, convenience, and necessity.
11 In the Commission's review of any application for
12 renewal of a broadcast license for a television station
13 that provides ancillary or supplementary services,
14 the television licensee shall establish that its pro-
15 gram service which is intended for and available to
16 the general public on the existing or advanced tele-
17 vision spectrum is in the public interest. Any viola-
18 tion of the Commission rules applicable to ancillary
19 or supplementary services may reflect upon the li-
20 censee's qualifications for renewal of its license.

21 (4) DEFINITIONS.—As used in this sub-
22 section—

23 (A) The term "advanced television serv-
24 ices" means television services provided using

6

1 digital or other advanced technology to enhance
2 audio quality and video resolution.

3 (B) The term "existing" means spectrum
4 generally in use for television broadcast pur-
5 poses on the date of enactment of this Act.

OWNERSHIP

6 (b) OWNERSHIP REFORM.—

7 (1) IN GENERAL.—The Commission shall mod-
8 ify its rules for multiple ownership set forth in 47
9 CFR 73.3555 by changing the percentage set forth
10 in subdivision (e)(2)(ii) from 25 percent to 35 per-
11 cent.

12 (2) STATUTORY RESTRICTIONS.—Section 613
13 (47 U.S.C. 533) is amended by striking subsection
14 (a) and inserting the following:

15 “(a) The Commission shall review its ownership rules
16 biennially as part of its regulatory reform review under
17 section 259.”.

18 (3) CONFORMING CHANGES.—The Commission
19 shall amend its rules to make any changes necessary
20 to reflect the effect of this section on its rules.

21 (4) EFFECTIVE DATE.—The Commission shall
22 make the modification required by paragraph (1) ef-
23 fective on the date of enactment of this Act.

⑦

LICENSES

1 (c) TERM OF LICENSES.—Section 307(c) (47 U.S.C.
2 307(c)) is amended by striking the first four sentences and
3 inserting the following:

4 “No license shall be granted for a term longer than
5 10 years. Upon application, a renewal of such license may
6 be granted from time to time for a term of not to exceed
7 10 years, if the Commission finds that the public interest,
8 convenience, and necessity would be served thereby.”.

9 (d) BROADCAST LICENSE RENEWAL PROCEDURES.—

10 (1) Section 309 (47 U.S.C. 309) is amended by
11 adding at the end thereof the following:

12 “(k)(1)(A) Notwithstanding subsections (c) and (d),
13 if the licensee of a broadcast station submits an applica-
14 tion to the Commission for renewal of such license, the
15 Commission shall grant the application if it finds, after
16 notice and opportunity for comment (and a hearing on the
17 record if it finds that there are credible allegations of seri-
18 ous violations by the licensee of this Act or the Commis-
19 sion’s rules or regulations), with respect to that station
20 during the preceding term of its license, that—

21 “(i) the station has served the public interest,
22 convenience, and necessity;

23 “(ii) there have been no serious violations by
24 the licensee of this Act or the rules and regulations
25 of the Commission; and

(F)

1 “(iii) there have been no other violations by the
2 licensee of this Act or the rules and regulations of
3 the Commission which, taken together, would con-
4 stitute a pattern of abuse.

5 “(B) If any licensee of a broadcast station fails to
6 meet the requirements of this subsection, the Commission
7 may deny the application for renewal in accordance with
8 paragraph (2), or grant such application on appropriate
9 terms and conditions, including renewal for a term less
10 than the maximum otherwise permitted.

11 “(2) If the Commission determines that a licensee
12 has failed to meet the requirements specified in paragraph
13 (1)(A) and that no mitigating factors justify the imposi-
14 tion of lesser sanctions, the Commission shall—

15 “(A) issue an order denying the renewal appli-
16 cation filed by such licensee under section 308; and

17 “(B) only thereafter accept and consider such
18 applications for a construction permit as may be
19 filed under section 308 specifying the channel or
20 broadcasting facilities of the former licensee.

21 “(3) In making the determinations specified in para-
22 graphs (1) or (2)(A), the Commission shall not consider
23 whether the public interest, convenience, and necessity
24 might be served by the grant of a license to a person other
25 than the renewal applicant.”

4

1 (2) Section 309(d) (47 U.S.C. 309(d)) is
2 amended by inserting "(or subsection (k) in the case
3 of renewal of any broadcast station license)" after
4 "with subsection (a)" each place it appears.

5 Subtitle B—Termination of Modification of Final
6 Judgment

7 SEC. 231. REMOVAL OF LONG DISTANCE RESTRICTIONS.

8 (a) IN GENERAL.—Part II of title II (47 U.S.C. 251
9 et seq.), as added by this Act, is amended by inserting
10 after section 254 the following new section:

11 "SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERV.
12 ICER.

13 “(a) IN GENERAL.—Notwithstanding any restriction
14 or obligation imposed before the date of enactment of the
15 Telecommunications Act of 1995 under section II(D) of
16 the Modification of Final Judgment, a Bell operating com-
17 pany, or any subsidiary or affiliate of a Bell operating
18 company, that meets the requirements of this section may
19 provide—

20 “(1) interLATA telecommunications services
21 originating in any region in which it is the dominant
22 provider of wireline telephone exchange service or ex-
23 change access service after the Commission deter-
24 mines that it has fully implemented the competitive
25 checklist found in subsection (b)(2) in the area in

Turks carried out their massacre without outside attention or interference. The genocide began on April 24, 1915, with a sweep of Armenian leaders. It did not end until 1923 when the entire Armenian population of 2 million had been killed or deported.

It is estimated that 1.5 million Armenians died at the hands of the Ottoman Turks—half of the world's Armenian population at the time. By 1923 the Turks had successfully erased nearly all remnants of the Armenian culture which had existed in their homeland for 3,000 years.

As we look back on this tragedy today, we see the memory of the victims insulted by those who say the genocide did not happen. A well-funded propaganda campaign forces the Armenian community to prove and reprove the facts of the genocide. This is itself a tragedy for a people who would rather devote their energy to commemorating the past and building the future.

I stand here today to say the genocide did happen. Nobody can erase the painful memories of the Armenian community. Nobody can deny the photos and historical references. Nobody can deny that few Armenians live where millions lived over 80 years ago.

It is our responsibility and our duty to keep the memories of the genocide alive. A world that forgets these tragedies is a world that will see them repeated again and again. The story of this and other genocides must be known by all.

We must also honor the victims who perished so brutally. We cannot right the terrible injustice inflicted upon the Armenian community and we can never heal the wounds. But by properly commemorating this tragedy, Armenians will at least know the world has not forgotten the misery of those years. Only then will Armenians begin to receive the justice they deserve.

DIVIDENDS RECEIVED DEDUCTION

HON. BILL ARCHER

OF TEXAS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. ARCHER. Mr. Speaker, recent news reports suggest that corporate taxpayers may be attempting to dispose of stock of other corporations through stock redemption transactions that are the economic equivalent of sales. The transactions are structured so that the redeemed corporate shareholder apparently expects to take the position that the transaction qualifies for the corporate dividends received deduction and therefore substantially avoids the payment of full tax on the gain that would apply to a sales transaction.

For example, it has been reported that Seagram Co. intends to take the position that the corporate dividends received deduction will eliminate tax on significant distributions received from DuPont Co. in a redemption of almost all the DuPont stock held by Seagram, coupled with the issuance of certain rights to reacquire DuPont stock.—See, for example Landro and Shapiro, *Hollywood Shuffle*, *Wall Street Journal* pp. A1 and A11, April 7, 1995; Sloan, *For Seagram and DuPont, a Tax Deal that No One Wants to Brandy About*, Wash-

ington Post p.D3, April 11, 1995; Sheppard, *Can Seagram Bail Out of DuPont without Capital Gain Tax*, *Tax Notes Today*, 95 TNT 75-4, April 10, 1995.—Moreover, it is reported that investment bankers and other advisors are actively marketing this potential transaction. We would like to express our appreciation to Congressman STEPHEN HORN for his efforts in bringing this issue to our attention.

Today we introduce legislation intended to curtail the use of such transactions immediately. We believe the approach adopted in the bill is the correct approach, given the incentives under present law for corporations to structure transactions in an attempt to obtain the benefits of the dividends received deduction. We welcome comments on the bill and recognize that additional or alternative legislative changes may also be appropriate. However, it is anticipated that any legislative change that is enacted would apply to transactions after May 3, 1995.

No inference is intended that any transaction of the type described in the proposed legislation would in fact produce the results apparently sought by the taxpayers under present law. The bill does not address and does not modify present law regarding whether a transaction would otherwise be eligible for the dividends received deduction, nor is it intended to restrict the IRS or Treasury Department from issuing guidance regarding these or other issues.

The bill is directed at corporate shareholders because it is believed that the existence of the dividends received deduction under present law creates incentives for corporate taxpayers to report transactions selectively as dividends or sales. No inference is intended that any transaction characterized as a sale under the bill necessarily would be so characterized if the shareholder were an individual.

DESCRIPTION OF THE BILL

Under the bill, except as provided in regulations, any non pro rata redemption or partial liquidation distribution to a corporate shareholder that is otherwise eligible for the dividends received deduction under section 243, 244, or 245 of the code would be treated as a sale of the stock redeemed. The bill applies to dividends to 80-percent shareholders that would qualify for the 100-percent dividends received deduction as well as to other transactions qualifying for a lesser dividends received deduction. It is not intended to apply to dividends that are eliminated between members of affiliated groups filing consolidated returns. However, it is expected that the Treasury Department will consider whether any changes to the consolidated return regulations would be necessary to prevent avoidance of the purposes of the bill.

The bill would replace the present law provision (sec. 1059(e)(1)) that requires a corporate shareholder to reduce basis—but not recognize immediate gain—in the case of certain non pro rata redemptions or partial liquidation distributions.

It is intended that the bill apply to all non pro rata redemptions except to the extent provided by regulations.

The bill retains the existing Treasury Department regulatory authority, contained in section 1059(g) of present law, to issue regulations, including regulations that provide for the application of the provision in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of

stock held by pass through entities. Thus, the Treasury Department can issue regulations to carry out the purposes or prevent the avoidance of the bill.

It is expected that recapitalizations or other transactions that could accomplish results similar to any non pro rata redemption or partial liquidation will also be subject to the provisions of the bill as appropriate.

It is also expected that redemptions of shares held by a partnership will be subject to the provision to the extent there are corporate partners.

There are concerns that taxpayers might seek to structure transactions to take advantage of sale treatment and inappropriately recognize losses. It is expected that the Treasury Department will by regulations address these and other concerns, including by denying losses in appropriate cases or providing rules for the allocation of basis.

It is anticipated that the private tax bar and other tax experts will provide input concerning the proposed legislation before its enactment. It is hoped that this process will identify any problems with the proposed legislation and potential improvements. Comment is encouraged in particular with respect to the loss disallowance provision, including whether the loss disallowance should be mandatory. Comment is also encouraged as to whether additional transition should be provided for existing rights to redeem contained in the terms of outstanding stock or otherwise.

EFFECTIVE DATE

The bill would be effective for redemptions occurring after May 3, 1995, unless pursuant to the terms of a written binding contract in effect on May 3, 1995 or pursuant to the terms of a tender offer outstanding on May 3, 1995.

No inference is intended regarding the tax treatment of any transaction within the scope of the bill. For example, no inference is intended that any transaction within the scope of the bill would otherwise be treated as a sale or exchange under the provisions of present law. At the same time, no inference is intended that any distribution to an individual shareholder that would be within the scope of the bill if made to a corporation should be treated as a sale or exchange to that individual because of the existence of the bill.

BROADCAST OWNERSHIP BILL

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. STEARNS. Mr. Speaker, today, I am proud to introduce a bipartisan bill to reduce the restrictions on ownership of broadcasting stations and other media of mass communication.—Congressman RALPH HALL from Texas, along with a number of my esteemed Republican colleagues support this bill which repeals antiquated rules and regulations and brings broadcasting up to date with technology. The bill states that the FCC is not to prescribe or enforce any regulations concerning cross ownership. The only rules that the FCC can make address national caps and local ownership combinations. The video marketplace has undergone significant changes. Today, most Americans have access not only to many

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over-the-air broadcast channels, but also subscribe to cable, or own a home satellite receiver. With telephone company entry into the video marketplace, American consumers will have additional options from which to choose their programming. Despite all these advances in technology broadcasting should remain a vital component in the information age. Broadcast television occupies a unique position in the world of telecommunications. Broadcasting is not only the only technology available to 100 percent of American households, the content it provides is free. The only cost is for a receiver.

The bill does the following: First, states that the FCC shall not prescribe or enforce rules limiting crossownership of mediums of mass communications; second, increases the aggregate national audience reach from 25 to 35 percent upon enactment. One year later allows the cap to increase to 50 percent. The bill contains a built-in safeguard: within 2 years of enactment of the bill, the FCC is to commission a study to ensure competition in the marketplace; third, the bill allows certain station ownership combinations in a market: UHF/UHF, UHF/VHF and if the Commission determines that it will not harm competition and will not harm the preservation of a diversity of voices in the local market, VHF/VHF combinations; fourth, the bill also repeals all radio ownership restrictions.

I might add that this bill will be presented as an amendment to the communications act of 1995, which has the full support of Chairman BLILEY and Chairman FIELDS and as previously mentioned, it is bipartisan.

CONGRATULATING CHERYL STEVENS, HONOR ROLL TEACHER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. BENTSEN. Mr. Speaker, I rise today to congratulate Cheryl D. Stevens, of Roberts Elementary School in Houston, TX. Ms. Stevens has been named by the Association of Science-Technology Centers to its 1995 Honor Roll of Teachers.

The Children's Museum of Houston, which nominated Ms. Stevens for the honor roll, recognized her remarkable dedication to the world of science and teaching. Ms. Stevens excels in both at Roberts Elementary, where she teaches science to kindergarten through fifth graders. She and her students are participants in Science-by-Mail, a pen pal program designed to match fourth through ninth graders with scientists around the country. Over 20,000 kids and 20,000 teachers are involved in Science-by-Mail. In addition to Science-by-Mail's regular pen pal program, Ms. Stevens and her classes have participated in a special Science-by-Mail teleconference, Teltrain XI, a video town meeting televised around the country for scientists and students.

Ms. Stevens is also active in the Annual Meet Your Scientist Day, which will take place this year on Saturday, May 6, 1995. Over 300 school children will meet with scientists to learn more about the world of science and technology. This year, Ms. Stevens will be honored for her recognition as one of ASTC's honor roll teachers for 1995.

Ms. Stevens is a member of the Magic School Bus Advisory Committee, sponsored by the National Science Foundation and the Children's Museum of Houston. She also works actively on the Science and Technology Committee and the Building Blocks for a Healthy Classroom Conference at the museum.

Only 43 teachers were named to the 10th annual ASTC's honor roll. Each teacher has gone beyond the normal requirements of their school curriculum by using the resources of their local science center to inspire, educate, and stimulate students' interest in science and technology. I salute Ms. Stevens on her accomplishments and especially for her commitment to teaching. She is an outstanding role model for Houston's teachers and students. Her placement on ASTC's Honor Roll of Teachers is well-deserved.

OPENING OF THE SPECIAL EXHIBIT "DEFENDING RELIGIOUS LIBERTY"

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SMITH of New Jersey. Mr. Speaker, thank you for this opportunity to speak out for religious freedom.

The worldwide religion known as the Baha'i Faith is one of the most peace-loving groups in the world—and yet one of the most consistently persecuted.

The Baha'i Faith began in Persia in the 1840's, and spread rapidly through the Middle East, where Islam has historically been dominant. Though the Baha'i Faith now has adherents all around the world, including all 50 States of the United States, its historic links to the Middle East have helped bring it repeatedly into conflict with Islam.

Islam, like most other world religions, teaches certain truths that its adherents take to be absolute. Baha'is take a different approach, seeing all religions as successive revelations, each with a partial truth.

These questions are faced, one way or another, by all men and women of conscience. And it is inevitable that many of us will come out differently on these questions. In decent societies—in free societies—we respect each other's freedom of conscience. If we seek to persuade one another, we do it in friendship, and with respect.

But in some parts of the world, force is still used to settle religious issues. In Iran, with its extremist regime, the fact that the Baha'is question Islam's claim to represent God's full and final revelation makes them a target of unceasing persecution. The fact that the Baha'i Faith arose on territory in which Islam has been dominant for some 1,400 years, and among ethnic groups with a long Islamic heritage, seems to be an unbearable irritant to the Iranian regime. They view the Baha'is as worse than mere adherents of another religion—which, in their eyes, is quite bad enough. They view them as something worse: as heretics, as conscious destroyers of Islam.

For those of us who have met Baha'i believers—even those of us who come from a religious perspective quite different from theirs—

the notion that they would be destroyers of anything is simply absurd.

Yet Baha'is in Iran have no legal rights, despite being the largest religious minority in that country. More than 200 Iranian Baha'is, including women and teenage girls, have been executed for their faith since 1979. Thousands have faced torture and imprisonment for refusing to convert to Islam. Tens of thousands have lost their jobs, and been forced to repay past salaries or pensions. All Baha'i students were expelled from Iranian universities by 1982.

President Clinton has placed Iran's treatment of its Baha'i minority on a par with ethnic cleansing in the former Yugoslavia. Given the professed intention of the Iranian regime to block the progress and development of the Baha'i Faith, I would have to agree with the President on this.

I salute my colleagues for sponsoring this exhibition on the persecution of the Baha'i Faith community. I hope it will inspire all who see it to stand up for religious freedom.

Thank you very much.

A SALUTE TO SMALL BUSINESS WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. MFUME. Mr. Speaker, I rise today to remind my colleagues, as well as the American public, that the week beginning April 30 is National Small Business Week, and I would like to take this opportunity to discuss small and minority-owned businesses and the role they play in our economy.

Not all Americans realize how important small businesses are to our national economy. Although the definition of a small business is sometimes varied, the fact of the matter is that firms with less than 100 employees account for more than 98 percent of the Nation's enterprises. Furthermore, between September 1991 and September 1992, jobs in small business dominated industries increased by 177,700 which helped to offset the 400,000 job decrease in industries dominated by large businesses.

While nonminority men still own the lion's share of small businesses and still represent the largest number of sales, minority- and women-owned businesses are increasing in size and number. Minority-owned businesses have increased from approximately 380,000 in 1989 to 1.5 million today. Despite this increase, however, minorities are still not fairly represented in small business ownership; while minorities comprise nearly 20 percent of the total U.S. population, they own less than 9 percent of American businesses.

In addition to playing an important role in the national economy, minority- and women-owned businesses also tend to play important roles in their communities. In many poor, urban communities, minority-owned businesses are often the only commercial establishments available. Furthermore, as was demonstrated in a recent Department of Labor study, minority- and women-owned businesses are more likely to hire minorities and women than are businesses owned by nonminority men. In short, minority- and women-owned

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Chairman Hunt Testimony (1/10/95)

1 RPTS RILEY

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5 HEARING ON PROPOSALS TO REFORM

6 UNITED STATES COMMUNICATIONS LAW

7 Thursday, May 11, 1995

8 House of Representatives

9 Subcommittee on Telecommunications

10 and Finance

11 Committee on Commerce

12 Washington, D.C.

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16 The subcommittee met, pursuant to notice, at 10:03 a.m.,
17 in Room 2123, Rayburn House Office Building, the Honorable
18 Jack Fields (Chairman), presiding.

19 Present: Representatives Fields, Oxley, Schaefer, Stearns,
20 Paxon, Gillmor, Cox, Frisa, White, Coburn, Bliley, Dingell,
21 Markey, Bryant, Boucher, Manton, Gordon, Rush, Eshoo and
22 Klink.

(13)

2979 with the society that gives them little hope. We give them
2980 hope by putting this in the classroom, and also giving them
2981 access at home at reasonable rates.

2982 I thank you for your efforts in that direction.

2983 Mr. OXLEY [PRESIDING]. The gentleman from Florida, Mr.
2984 Stearns.

2985 Mr. STEARNS. Thank you, Mr. Chairman, and I just want to
2986 welcome my good friend from the FCC, Mr. Hundt. I think
2987 everybody up here feels you're very forthright and able, so
2988 we're glad you took of your time to come here.

2989 We've probably been talking about our telecommunications
2990 bill, but I'd also like to ask for your comments on H.R. ~~the~~
2991 ¹³⁵⁶~~5550~~, which is dealing with broadcast ownership reform.
2992 Maybe you could specifically give us your opinion in this
2993 area, to repeal or modify the broadcast cable or network
2994 cable ownership restrictions; and then I have another
2995 follow-on question.

2996 Mr. HUNDT. I think that it's certainly high time to layout
2997 a blueprint vis-a-vis media ownership that is appropriate
2998 for the digital age. I think that, for example, when we do
2999 roll out the digital spectrum, and if as this bill suggests,
3000 broadcasters have the ability to deliver in Washington, DC
3001 40, 50 or 60 different signals, then it will be very fit,
3002 right and proper to reexamine the ownership restrictions and
3003 make sure that what we are applying is a good antitrust

(14)
= bill's broadcast ownership
reform provisions could
facilitate development of local

digital programming

3004 paradigm.

3005 You should ^{not} be able to buy so many of the signals that you
 ^
3006 can dominate the market. We should have competitive
3007 markets, but we don't need to have arbitrary restrictions
3008 such as only one network per city.

3009 I do think, though, congressman that it's very important
3010 that we all recognize that TV markets on a local basis are
3011 very different city-to-city. I don't have to tell the
3012 members of this committee. I'm sure that they know and can
3013 compare notes. In some cases, there are 10, 12 stations in
3014 a market. For a city like that to have two of those
3015 stations owned by one network doesn't seem to raise any
3016 anticompetitive risks.

3017 Mr. STEARNS. Specifically, in the bill 1556, do you have
3018 objection with the 35 percent ownership at the date of
3019 enactment of the law, and then a year later going to 50, and
3020 then the FCC at the end of two years going ahead and--I mean,
3021 would you endorse that today? Would you say that that is an
3022 acceptable proposal?

3023 Mr. HUNDT. Well, the national ownership cap going up, as
3024 you know, congressman is something that we suggested at the
3025 FCC. I can't, as a matter of law, prejudge our ruling
3026 there, but I can tell you what we suggested there, and
3027 what's in this bill are pretty much the same thing.

3028 Mr. STEARNS. I take that as endorsement. It's close

15

3029 enough.

3030 [Laughter.]

3031 Mr. STEARNS. What about broadcast newspaper restrictions,
3032 national local TV ownerships? This whole mass
3033 communications is sort of one line in this bill that
3034 everybody just sort of glosses over, but it means of course,
3035 deregulation of ownership for publications, newspaper
3036 publications, radio and everything.

3037 Do you agree? Could you give that same kind of indirect
3038 answer that you just gave on the other one?

3039 Mr. HUNDT. I think the lines between these different
3040 industries definitely are blurring. Your bill foresees that
3041 those blurrings will become inevitable and that we won't be
3042 able to perceive lines.

3043 I don't disagree with that, but I do very much think that
3044 it is important to have government continue to have the
3045 power to watch out for and protect against many monopolies
3046 on a city-by-city, market-by-market basis.

3047 If you're in a town where there's only one newspaper and
3048 one cable company and four TV stations, I don't think we
3049 should have just one or two firms own all of those outlets.
3050 I think that would be anticompetitive. But, if you're in a
3051 town with two newspapers, a cable company and 14, 15 TV
3052 stations, the competitive circumstances would be different
3053 there.

(16)